



Patrick W. Henning, Director
February 17, 2009
22M:388:TLA:9034



Arnold Schwarzenegger
Governor

Mr. Robert Martin, Director
Mother Lode Consortium
19890 Cedar Rd. North
Sonora, CA 95370

Dear Mr. Martin:

WORKFORCE INVESTMENT ACT
85-PERCENT PROGRAM REVIEW
FINAL MONITORING REPORT
PROGRAM YEAR 2008-09

This is to inform you of the results of our review for Program Year (PY) 2008-09 of the Mother Lode Consortium's (MLC) Workforce Investment Act (WIA) 85-Percent program operations. We focused this review on the following areas: Workforce Investment Board and Youth Council composition, local program monitoring of subrecipients, management information system/reporting, incident reporting, nondiscrimination and equal opportunity, grievance and complaint system, and Youth program operations including WIA activities, participant eligibility, and Youth services.

This review was conducted by Mr. TG Akins from October 27, 2008 through October 30, 2008.

Our review was conducted under the authority of Sections 667.400 (a) and (c) and 667.410 of Title 20 of the Code of Federal Regulations (20 CFR). The purpose of this review was to determine the level of compliance by MLC with applicable federal and state laws, regulations, policies, and directives related to the WIA grant regarding program operations for PY 2008-09.

We collected the information for this report through interviews with MLC representatives, service provider staff, and WIA participants. In addition, this report includes the results of our review of selected case files, MLC's response to Section I and II of the Program On-Site Monitoring Guide, and a review of applicable policies and procedures for PY 2008-09.

We received your response to our draft report on December 19, 2008, and reviewed your comments and documentation before finalizing this report. Your response adequately addressed findings 1 and 2 cited in the draft report. However, these issues

will remain open until we verify your implementation of your stated corrective action plan during a future onsite review. Until then, these findings are assigned Corrective Action Tracking System (CATS) numbers 90025 and 90026.

Because your response did not adequately address finding 4 cited in the draft report, we consider this finding unresolved. We request that MLC provide the Compliance Review Division (CRD) with a corrective action plan (CAP) and additional information to resolve the issue that led to the finding. Therefore, this finding remains open and has been assigned CATS number 90027.

BACKGROUND

The MLC was awarded WIA funds to administer a comprehensive workforce investment system by way of streamlining services through the One-Stop delivery system. For PY 2008-09, MLC was allocated: \$509,965 to serve 132 adult participants; \$545,011 to serve 88 youth participants; and \$543,802 to serve 100 dislocated worker participants.

For the quarter ending September 30, 2008, MLC reported the following expenditures for its WIA programs: \$88,516 for adult participants; \$258,921 for youth participants; and \$135,858 for dislocated worker participants. In addition, MLC reported the following enrollments: 57 adult participants; 19 youth participants; and 35 dislocated worker participants. We reviewed case files for 30 of the 111 participants enrolled in the WIA program as of October 27, 2008.

PROGRAM REVIEW RESULTS

While we concluded that, overall, MLC is meeting applicable WIA requirements concerning grant program administration, we noted instances of noncompliance in the following areas: Workforce Investment Board (WIB) composition, Youth Council, work permits, and supportive services payments. The findings that we identified in these areas, our recommendations, and MLC's proposed resolution of the findings are specified below.

FINDING 1

Requirement: WIA Section 117(b)(2)(A)(iii) states, in part, that the composition of the local WIB shall include representatives of local labor organizations. 20 CFR 661.315(a) states that the local WIB must contain two or more members representing the categories described in WIA Section 117(b)(2)(A)(iii).

WIA Section 117(b)(4) states, in part, that a majority of the members of the local board shall be representatives from local business.

20 CFR 661.315(e) states, in part, that Chief elected officials must appoint business representatives from among individuals who are nominated by local business organizations and business trade associations. Chief elected officials must appoint the labor representatives from among individuals who are nominated by local labor federations (or, for a local area in which no employees are represented by such organizations, other representatives of employees).

WIAD06-21 states, in part, that at least 15 percent of local board members shall be representatives of labor organizations unless the local labor federation fails to nominate enough members. If this occurs, then at least 10 percent of the local board members shall be representatives of labor organizations.

Observation: We observed that MLC's WIB did not have a business majority. Specifically, there are only 13 business members out of 39 total members. Also, we observed that MLC's WIB has only 2 labor representatives. Consequently, MLC's WIB does not have 15 percent of its membership from labor organizations.

Recommendation: We recommended that MLC provide CRD with a CAP, including a timeline, for appointing the required number of members to their WIB. We also recommended that MLC provide CRD with a copy of an updated WIB roster after the vacant positions are filled.

MLC Response: The MLC stated that they are currently identifying and recruiting additional members from the local business sector and from labor organizations. Additionally, MLC provided a timeline which shows all vacant positions will be filled by October 21, 2009.

State Conclusion: The MLC's stated corrective action should be sufficient to resolve this issue. However, we cannot close this issue until we verify, during a future onsite visit, MLC's successful implementation of its stated corrective action. Until then, this issue remains open and has been assigned CATS number 90025.

FINDING 2

- Requirement:** 20 CFR 661.335(b) states, in part, that the membership of each youth council must include:
- Members of the Local Board, such as educators, which may include special education personnel, employers, and representatives of human service agencies, who have special interest or expertise in youth policy;
 - Members who represent service agencies, such as juvenile justice and local law enforcement agencies;
 - Members who represent local public housing authorities;
 - Parents of eligible youth seeking assistance under subtitle B of Title I of WIA;
 - Individuals, including former participants, and members who represent organizations, that have experience relating to youth activities; and
 - Members who represent the Job Corps, if a Job Corps Center is located in the local area represented by the council.
- 20 CFR Section 661.340 states, in part, that the Youth Council is responsible for coordinating youth activities in the local area, developing portions of the local plan related to eligible youth, recommending eligible service providers, and conducting oversight of eligible providers of youth activities.
- Observation:** We observed that MLC's Youth Council has not met with a quorum since September 22, 2004. MLC's WIB is currently working on reestablishing the Youth Council and has appointed a chairperson and four other members.
- Recommendation:** We recommended that MLC provide CRD with a CAP, including a timeline, which details how they will reestablish their Youth Council and fill all vacancies. Also, we recommended that MLC provide CRD with a copy of the Youth Council roster after all vacancies are filled.
- MLC Response:** The MLC stated that the Mother Lode WIB is actively recruiting new members and they plan to fill all vacant seats by November 19, 2009.

State Conclusion: The MLC's stated corrective action should be sufficient to resolve this issue. However, we cannot close this issue until we verify, during a future onsite visit, MLC's successful implementation of its stated corrective action. Until then, this issue remains open and has been assigned CATS number 90026.

FINDING 3

Requirement: California Education Code Section 49160 states, in part, that no person, firm or corporation shall employ, suffer, or permit any minor under the age of eighteen to work in or in connection with any establishment or occupation, except as provided in Section 49151, without a permit to employ, issued by the proper educational officers in accordance with law.

California Labor Code Section 1299 states, in part, that every person, or agent or officer thereof, employing minors, either directly or indirectly through third persons, shall keep on file all permits and certificates, either to work or to employ.

Observation: We observed that one case file was missing the participant's work permit. The participant was in a work experience program through MLC for the Army Corp. of Engineers at Hogan Dam during the summer months of 2008. The case file did have a copy of the participant's expired work permit and application for an updated work permit with the new employer.

Subsequent to the on-site review, MLC provided CRD with a copy of the participant's current work permit. We consider this issue resolved.

FINDING 4

Requirement: OMB Circular A-87, attachment B(16) states, in part, that fines, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the governmental unit to comply with, Federal, State, or local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the Federal award or written instructions by the awarding agency authorizing in advance such payments.

Observation: We observed that MLC processed a supportive service payment for a participant which included a late payment penalty. Specifically, MLC paid for a participant's car payment which included a penalty for a late payment.

Recommendation: We recommended that MLC provide CRD with a CAP which ensures that, in the future, fines, penalties, damages and other settlements resulting from violations will not be processed using WIA funds. Also, we recommended that MLC provide CRD with documentation showing that the late payment fee has been reallocated to a non-WIA funding source and that the cost of the payment is backed out of the WIA account.

MLC Response: The MLC stated that they disagree with our interpretation of OMB Circular A-87 as it is cited above and have asked their Regional Advisor for assistance regarding this issue.

State Conclusion: We acknowledge MLC's position; however, this issue will remain open pending further research and has been assigned CATS number 90027.

We provide you up to 20 working days after receipt of this report to submit your response to the Compliance Review Division. Because we faxed a copy of this report to your office on the date indicated above, we request your response no later than March 17, 2009. Please submit your response to the following address:

Compliance Monitoring Section
Compliance Review Division
722 Capitol Mall, MIC 22M
P.O. Box 826880
Sacramento, CA 94280-0001

In addition to mailing your response, you may also FAX it to the Compliance Monitoring Section at (916) 654-6096.

Because the methodology for our monitoring review included sample testing, this report is not a comprehensive assessment of all of the areas included in our review. It is MLC's responsibility to ensure that its systems, programs, and related activities comply with the WIA grant program, Federal and State regulations, and applicable State directives. Therefore, any deficiencies identified in subsequent reviews, such as an audit, would remain MLC's responsibility.

Mr. Robert Martin

-7-

February 17, 2009

Please extend our appreciation to your staff for their cooperation and assistance during our review. If you have any questions regarding this report or the review that was conducted, please contact me at (916) 653-7541 or Mr. TG Akins at (916) 654-8428.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessie Mar". The signature is fluid and cursive, with the first name "Jessie" written in a larger, more prominent script than the last name "Mar".

JESSIE MAR, Chief
Compliance Monitoring Section
Compliance Review Division

cc: Greg Gibson, MIC 50
Jose Luis Marquez, MIC 50
Daniel Patterson, MIC 45
Roger Schmitt, MIC 50